IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE K.BALAKRISHNAN NAIR

TUESDAY, THE 13TH FEBRUARY 2007 / 24TH MAGHA 1928

WP(C).No. 27399 of 2006(J)

PETITIONER:

M.BASHEER,
KAITHAKONAM HOUSE, KATTAKKADA P.O.,
THIRUVANANTHAPURAM.

BY ADV. SRI.M.R.ANANDAKUTTAN
SMT.M.HEMALATHA
SRI.R.S.MADHU
SRI.MAHESH ANANDAKUTTAN

RESPONDENTS:
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1. THE ASSISTANT GENERAL MANAGER,
STATE BANK OF INDIA, ZONAL OFFICE,
THIRUVANANTHAPURAM.

2. THE CHIEF MANAGER,
STATE BANK OF INDIA, REGION-1, ZONAL OFFICE,
L.M.S.COMPOUND, PALAYAM, THIRUVANANTHAPURAM.

BY ADV. SRI.P.V.SURENDRANATH, SC, SBI

THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD ON 13/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

WPC NO. 27399/2006

APPENDIX

PETITIONER'S EXHIBITS

EXT.P1: TRUE COPY OF REPRESENTATION DATED 9.1.2006.

EXT.P2: TRUE COPY OF THE JUDGMENT IN WP(C) 13537/06 DATED 25.5.2006.

EXT.P3: TRUE COPY OF THE ORDER DATED 6.6.2006.

EXT.P4: TRUE COPY OF TE GUIDELINES IN R.B.I.

EXT.P5: TRUE COPY OF THE REPRESENTATION DATED 22.6.2006.

EXT.P6: TRUE COPY OF THE NOTICE DATED 12.7.2006.

EXHIBITS OF R1

EXT.R1(a): A TRUE COPY OF THE COMMUNICATION DATED 6.6.2006 ISSUED TO THE PETITIONER.

EXT.R1(b): TRUE COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONER DATED 22.6.2006.

EXT.R1(c): TRUE COPY OF THE COMMUNICATION DATED 12.7.2006 ISSUED BY THE BANK TO THE PETITIONER.

EXT.R1(d): TRUE COPY OF THE STATEMENT DATED 25.9.2006 FILED BY THE STANDING COUNSEL FOR THE BANK.

//TRUE COPY//

P.A. TO JUDGE

K.BALAKRISHNAN NAIR, J.

WP(C).No.27399 of 2006-J

Dated this the 13th day of February, 2007.

JUDGMENT

The petitioner is in default to the State Bank of India in relation to two loans, one a housing loan of Rs.10 lakhs and the other for Rs.25 lakhs advanced for construction of a commercial complex. The petitioner moved for the benefit of one-time-settlement scheme. This Court by Ext.P2 judgment directed the bank to examine the case of the petitioner, in the light of the guidelines issued by the Reserve Bank of India. Later, Ext.P3 notice under Section 13 (2) of Securitisation and Reconstruction of Financial Assets and Enforcement of Security Interest Act was issued in which the petitioner's claim for one-time-settlement was also considered and rejected. Thereupon, the petitioner submitted Ext.P5 representation pointing out that he is entitled to get the benefit of one-time-settlement scheme. The said representation was rejected by Ext.P6. This writ petition is filed challenging Exts.P3 and P6. According to the petitioner, he is eligible for one-time-settlement scheme in terms of Ext.P4 guidelines.

2. The respondents have filed a counter affidavit in which it is submitted that the loans granted to the petitioner are not covered by any of the schemes notified by the R.B.I for one-time-settlement. It is

submitted that Ext.P4 does not apply to small scale industrial sector.

3. The petitioner has not filed any reply affidavit.

4. Heard the learned counsel on both sides. The petitioner's claim for one-time-settlement scheme is not found on Ext.P4 guidelines. Para 2 of the said guidelines reads as follows:

> "2. The guidelines will not, however, cover cases of wilful default, fraud and malfeasance, Banks shall identify cases of wilful default, fraud and malfeasance and initiate prompt action. Accordingly, guidelines for one-time-settlement of dues relating to NPAs of public sector banks in SME sector are given below:
>
> "....."

5. It is evident form the above-quoted para that Ext.P4 is applicable only to SME sector and not to the loans availed of by the petitioner. In view of the above position, I find nothing illegal with Ext.P3 or Ext.P6. But, the learned counsel for the petitioner points out that the above contention now raised in their counter affidavit does not find a place in Ext.P3 or Ext.P6. This is only a technical contention which will not serve any purpose. The petitioner will not be benefited by receiving a fresh communication from the bank stating that his loans are not covered by Ext.P4.

Accordingly, the writ petition fails, and it is dismissed.

K.BALAKRISHNAN NAIR,
MS JUDGE.